**SHRI G.S. SINGHVI, THE CHIEF JUSTICE**
**AND**
**HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY**
**WRIT PETITION NO. 19893 OF 2006**

**BETWEEN**

Jaya Enterprises

**..... Petitioner**

**And**

District Consumer Redressal Forum,
Rep. by its President, Prakasam District & another

**.....Respondents**

Counsel for the petitioner : Mrs. Kavitha Gottipati

**Dated:** 28.09.2006

**:: O R D E R ::**

**Per G.S. SINGHVI, CJ**

This is a petition for setting aside order dated 20.07.2006 passed by District Consumer Disputes Redressal Forum, Prakasam District at Ongole (for short 'the District Forum') whereby it directed the attachment of the property specified in the schedule appended to the application filed by the complainant (respondent No.2 herein).

The petitioner is a registered firm. It is engaged in the activity of raising teak trees. For this purpose, it has been collecting Rs.1,000/- each from individual members and issuing cash certificates in lieu thereof. Respondent No.2, who had deposited Rs.1,000/- with the petitioner, and 16 other similarly situated persons filed a complaint under Section 12 of the Consumer Protection Act, 1986 (for short, 'the Act') with the grievance that the petitioner has defrauded them and has refused repayment of the amounts deposited by them. Their complaint was registered as Consumer Dispute No.115 of 2005. By an order dated 5.7.2005, the District Forum allowed the complaint and directed the petitioner to pay the amounts due to the complainants with interest at the rate of 18% per annum from the date of maturity till the date of payment. The District Forum also awarded compensation of Rs.3,000/- with interest at the rate of 12% per annum to each cash certificate-holder.

It is borne out from the record that during the pendency of the proceedings of the complaint

instituted by respondent No.2 and 16 others, one Atmakuri Punnaiah filed O.S.No.11 of 2005 in the Court of Principal Junior Civil Judge, Addanki with the prayer that the petitioner and other defendants be restrained from cutting and selling 14 trees grown under the scheme evolved by the petitioner. The said Atmakuri Punnaiah also filed an application under Order 39, Rules 1 and 2 of the Code of Civil Procedure, which was registered as I.A.No.74 of 2005. By an order dated 1.2.2005, the trial Court restrained the defendants (including the petitioner herein) from cutting the trees planted on the suit land. That order was produced by the petitioner in the proceedings of E.P.No.12 of 2005 instituted by respondent No.2 before the District Forum for execution of order dated 5.7.2005. At one stage, the District Forum deferred the proceedings of E.P.No.12 of 2005 on the ground of pendency of I.A.No.88 of 2006 in O.S.No.11 of 2005 and receipt of notice issued by the trial Court, but after hearing the parties, the District Forum passed the impugned order for attachment of the property specified in the schedule appended to E.P.No.12 of 2005.

We have heard Mrs. Kavitha Gottipati and perused the record.

The solitary ground on which the petitioner has questioned the order passed by the District Forum is that in the suit instituted by Atmakuri Punnaiah against the petitioner and 28 others, an order of injunction has been passed by the Principal Junior Civil Judge, Addanki restraining the defendants from dealing with the property and cutting the trees and, therefore, the same could not be attached in the proceedings of E.P.No.12 of 2005 instituted by respondent No.2.

In our opinion, the order under challenge does not suffer from any jurisdictional infirmity or error of law apparent on the face of the record which may justify interference by this Court under Article 226 of the Constitution. The proceedings pending before the civil court do not have any bearing on the adjudication of the complaint made by respondent No.2 under Section 12 of the Act. Therefore, the mere fact that the Civil Court has, in the suit filed by Atmakuri Punnaiah, passed some order of injunction against cutting of trees cannot be made basis for holding that the District Forum did not have the jurisdiction to attach the petitioner's property for execution of order dated 05.07.2005 passed in C.D.No.115 of 2005.

We are further of the view that order dated 29.03.2006 passed by the District Forum whereby the proceedings of the execution petition instituted by complainant-respondent No.2 were postponed cannot be construed as res judicata to the further proceedings taken by the District Forum on being informed that there is no injunction against the execution petition filed by the complainant.

With the above observations, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.25110 of 2006 filed by the petitioner for interim relief is also dismissed.

**G.S. SINGHVI, CJ**

**C.V. NAGARJUNA REDDY, J**

28.09.2006

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